

**Bureau of Land Management
Winnemucca District Office
Categorical Exclusion**

[] HRFO (1000) [X] BRFO (3000) [] District ()

CX#: DOI-BLM-NV-W030-2012-0003 -CX	Date: 12/22/2011
Regulatory Authority (CFR or Law): 43 CFR 2800 BLM Manual: 2800 Subject Function Code: 2800	Lease / Case File / Serial #: N-89460
Project Lead Preliminary Review: Yes Is the project located within a SG 75% BBDA (Sage Grouse 75% Bird Breeding Density Area)? No	

1. BLM District Office: Winnemucca District Office
2. Name of Project Lead: Julie McKinnon
3. Project Title: Diebold Road Right-of-way
4. Applicant: Tony and Donna Diebold
5. Project Description: (briefly describe who, what, when, where, why, how)

Tony and Donna Diebold are seeking legal access to their private property, Five Mile Ranch, along an existing dirt road so they can build a ranch house. The existing road is approximately 20 feet in width and 1,843.71 feet in length. Access to this dirt road would be from County Rd. #213. At some point in the future they may use a grader to smooth out any ruts that could occur from normal wear and tear and weather. They would not go out of the existing footprint without prior approval from the BLM.

Project dimensions (length, width, height, depth): 1,843.71'(l) x 20' (w) Acreage: .85

Will the project result in new surface disturbance? Yes No X

Has the project area been previously disturbed? Yes X No N/A . If yes, what percent of the project area has been disturbed? 100 % . If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one):

6. Legal Description: T. 42 N., R. 25 E., sec. 2 , SWSW 1/4 NESW 1/4
 T. N., R. E., sec. , 1/4 1/4

USGS 24k Quad name: Summit Lake

100k map name: Vya

Land Status: BLM X Private Other

7. Create PDFs of 1:24000 Project Location Map and 1:100,000 general vicinity map. (See template and instructions located in
 T:\NV\GIS_Work\WMDO\Project\Planning\NEPA\WorkingData. Instructions are located in
 S:\NEPA_2010\NEPA Templates 2010\Proposed Action_Needs Assessment)

CX#: DOI-BLM-NV-W030-2012-0003 -CX
Applicant:Diebold's
Project Title:Diebold access road ROW

CX#: DOI-BLM-NV-W030-2012-0003 -CX
Applicant:Diebold's
Project Title:Diebold access road ROW

Field or other appropriate Manager Concurrence: **Date: Part I: Plan Conformance Review**
The proposed Action is subject to the:
☒ Paradise-Denio Management Framework Plan
☐ Sonoma-Gerlach Management Framework Plan
☐ Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP
(The Proposed Action has been reviewed for conformance with this plan (43 CFR 1610.5, BLM Manual 1617.3)).

Part II: NEPA Review

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

☐ 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*) (**Define Exclusion – see lists available at: S:\NEPA_2010\NEPA Templates 2010\CX\CX Lists\ DOI CXs**)

☒ 516 DM11.9, (BLM) E. Realty #16: (**Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.)**

Realty #17: (**Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.**)

ESA and BLM Sensitive Status Species

Evaluation Criteria	Yes	No
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input type="checkbox"/>	<input type="checkbox"/>

Table 1. Special Status Species that may occur in the project area:

ESA	BLM	Common (<i>Scientific</i>) Name	May Be Affected?	Mitigation for BLM Sensitive Species (<i>Attach ESA Section 7 Compliance to Form</i>)
<input type="checkbox"/>	×	Bighorn sheep	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Existing road; no new disturbance
<input type="checkbox"/>	×	Greater sage-grouse	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Existing road; no new disturbance
<input type="checkbox"/>	×	Sensitive migratory birds (see attached list)	<input type="checkbox"/> Yes	Existing road; no new disturbance

CX#: DOI-BLM-NV-W030-2012-0003 -CX
Applicant:Diebold's
Project Title:Diebold access road ROW

			×No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Table 2 Migratory Bird Treaty Act Consideration

Potential MBTA Species w/in the Project Area Common (<i>Scientific</i>) Name	May Be Affected?	Proposed Mitigation
See attached list of migratory birds	<input type="checkbox"/> Yes ×No	Existing road; no new disturbance
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

Mitigation Measures/Remarks: (if there are any applicable mitigation measures, including any standard stipulations, conditions of approval, terms of conditions, etc. that would be attached to the permit, state "See Attached" and attach a copy to the CX.)

CX#: DOI-BLM-NV-W030-2012-0003 -CX
Applicant:Diebold's
Project Title:Diebold access road ROW

Part III: DECISION: I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required. Project authorization is subject to mitigation measures identified above.

Remarks reserved for authorized officer:

Authorized Official _____/s/Michael Truden _____ Date: __5/30/2012_____
(Signature)

Pursuant to 2805.13, a right-of-way grant is effective after both the applicant and the BLM sign it, which carries the full force and effect of the decision. Full force and effect means that the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. Immediate implementation is an option, not a requirement, of the decision.

Administrative Review or Appeal Opportunities

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Rolando Mendez, Field Manager, Black Rock Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.47I(c), a petition for stay, if filed, must show sufficient justification based on the

CX#: DOI-BLM-NV-W030-2012-0003 -CX
Applicant:Diebold's
Project Title:Diebold access road ROW

following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).